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7 Attorneys for Defendants
LENNOX HEARTH PRODUCTS INC.; LENNOX
8 INTERNATIONAL INC.; LENNOX INDUSTRIES
INC.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

13 KIRK KEILHOLTZ and KOLLEEN
14 KEILHOLTZ for themselves and on behalf
of those similarly situated,

15 Plaintiffs,

16 v.

17 LENNOX HEARTH PRODUCTS INC.;
18 LENNOX INTERNATIONAL INC.;
LENNOX INDUSTRIES; and DOES 1
through 25, Inclusive,

19 Defendants.
20

Case No. 4:08-cv-00836-CW (JCS)

**STIPULATION AND
ORDER REGARDING BRIEFING
SCHEDULE ON MOTION FOR CLASS
CERTIFICATION**

21 TO THE COURT AND ALL ATTORNEYS OF RECORD:

22 By and through their counsel of record, Plaintiffs Kirk Keilholtz and Kolleen Keilholtz
23 (collectively "Plaintiffs"), and Defendants Lennox Hearth Products Inc., Lennox International
24 Inc. and Lennox Industries Inc. (collectively "Defendants") hereby stipulate to the following:

25 1. On September 18, 2009, the court issued a written order providing, in pertinent
26 part, that Defendants had until October 12, 2009, to file an Opposition to the Motion for Class
27 Certification; that Plaintiffs until October 26, 2009, to file a Reply to the Opposition; and that
28 Defendants had until November 9, 2009, to file a Surreply.

1 2. Defendants could not file their Opposition to the Motion for Class Certification on
2 October 12, 2009, because the Electronic Court Filing system ("ECF") for the United States
3 District Court for the Northern District of California went offline from October 9, 2009, at 5:00
4 p.m. until October 13, 2009, at approximately 6:30 a.m. Consequently, Defendants did not file
5 their Opposition until October 13, 2009.

6 3. On October 13, 2009, Defendants met and conferred with Plaintiffs about their
7 inability to file their Opposition to the Motion for Class Certification due to ECF filing issues.
8 Plaintiffs and Defendants agreed and stipulated to the filing of the Opposition to the Motion for
9 Class Certification on October 13, 2009.

10 4. On October 13, 2009, Defendants and Plaintiffs also agreed, and hereby stipulate,
11 that Plaintiffs shall have one (1) additional day to file their Reply to the Opposition, and that
12 Defendants shall have one (1) additional day to file their Surreply. Therefore, Plaintiffs now have
13 until October 27, 2009, to file a Reply to the Opposition and Defendants now have until
14 November 10, 2009, to file a Surreply.

15 **IT IS HEREBY STIPULATED:**

16 DATED: October 20, 2009

DOWNEY BRAND LLP

18 By: /s/ William R. Warne

19 WILLIAM R. WARNE
20 Attorney for Defendants
21 LENNOX HEARTH PRODUCTS INC.
22 LENNOX INTERNATIONAL INC.
23 LENNOX INDUSTRIES INC.

24 DATED: October 20, 2009

ARNOLD LAW FIRM

25 By: /s/ Kirk J. Wolden (as authorized on 10/19/09)

26 KIRK J. WOLDEN
27 Attorney for Plaintiffs
28 KIRK KEILHOLTZ and KOLLEEN
 KEILHOLTZ for themselves and on behalf of
 those similarly situated

1 **IT IS SO ORDERED:**

2 The court, having considered the Stipulation of the parties and good cause appearing,
3 hereby orders the following changes to the briefing schedule on the Motion for Class
4 Certification: Plaintiffs shall file their Reply to the Opposition to the Motion for Class
5 Certification on or before October 27, 2009. No surreply is needed because no cross motion
6 was filed. The hearing date of December 3, 2009, remains unchanged.

7
8
9 Dated: October 21, 2009

By:



HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE,
NORTHERN DISTRICT OF CALIFORNIA